IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Crl.MC.No. 3636 of 2007()

CC.485/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

.....

PETITIONER: PETITIONERS

---

1. SHAFEEK, S/O.MOHAMMED HAJI,
THARUPEEDIKAYIL, PATTEPADAM DESOM,
THEKKUMKARA VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

2. BEEPATHUMMA, W/O.MOHAMMED HAJI,
THARUPEEDIKAYIL, PATTEPADAM DESOM,
THEKKUMKARA VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, IRINJALAKUDA POLICE
STATION THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SHALEEMA, D/O.KUNHU MOHAMMED,
PALLIPARAMBIL, VELLANGALLORE DESOM,
VADAKKUMKARA VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3636 of 2007

Dated this the 5th day of December, 2007

O R D E R

Petitioners are the husband and mother in law of the defacto complainant/2nd respondent herein. The petitioners are the accused in a prosecution for offences punishable, inter alia, under Section 498 A I.P.C. There is no allegation of the petitioners having committed any other non compoundable offences. Cognizance has been taken on the basis of a final report submitted by the police after due investigation of a crime. That crime in turn was registered on the basis of a private complaint filed by the 2nd respondent herein. The case is now pending before the Judicial Magistrate of the First Class, Irinjalakuda as C.C.No.485 of 2006.

2. The petitioners and the 2nd respondent have come before this Court through their respective counsel to report to the Court that they have settled all the disputes between them and that the 2nd respondent has compounded the offences allegedly committed by the petitioners herein. They have already been

legally divorced. They have taken up separate residence. All the other disputes between them have been settled. The 2nd respondent has compounded the offences allegedly committed by the petitioners. A joint statement to that effect duly signed by the rival contestants and counter signed by their counsel has also been produced as Annexure-A4.

3. I am satisfied from the averments in the Crl.M.C, from the averments in the joint statement and from the submissions made at the Bar by both the counsel that the parties have willingly and voluntarily settled their disputes and the 2nd respondent has compounded the offence alleged against the petitioners. If legally permissible, I am satisfied, that the composition can be accepted and premature termination of the prosecution can be brought about.

4. But the offence under Section 498 A I.P.C is not legally compoundable under Section 320 I.P.C. The counsel in these circumstances rightly place reliance on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that the powers under Section 482

Cr.P.C are wide and sweeping and can be pressed into service when the interests of justice so demand. The interests of justice, it is held, may at times transcend the interests of mere law and in such circumstances, the provisions of Section 320 Cr.P.C cannot be reckoned as a fetter on the powers of the Court under Section 482 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C as enabled by the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386] can and ought to be invoked to bring to premature termination the proceedings against the petitioners.

6. In the result, this Crl.M.C is, allowed. C.C.No.485 of 2006 against the petitioners pending before the Judicial Magistrate of the First Class, Irinjalakuda, is hereby quashed.

(R.BASANT, JUDGE)

rtr/-